COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

# FISCAL NOTE

L.R. No.: 4589-05
Bill No.: SCS for HCS for HB 1898
Subject: Taxation and Revenue - Sales; Pharmacy; Insurance Department
Type: Original
Date: May 6, 2002

## FISCAL SUMMARY

| ESTIMATED NET EFFECT ON STATE FUNDS | | | |
|---|---|---|---|
| FUND AFFECTED | FY 2003 | FY 2004 | FY 2005 |
| General | $31,094,145 | $0 | $0 |
| Conservation* | (Unknown) | $0 | $0 |
| Highway | ($720,456) | $0 | $0 |
| Pharmacy Tax Fund** | $0 | $0 | $0 |
| **Total Estimated Net Effect on All State Funds** | **Less than $30,373,689** | **$0** | **$0** |

*Expected to exceed $100,000 annually.
**Revenues and expenditures of up to an estimated $177,600,000 in FY 03 would net to $0.

| ESTIMATED NET EFFECT ON FEDERAL FUNDS | | | |
|---|---|---|---|
| FUND AFFECTED | FY 2003 | FY 2004 | FY 2005 |
| Federal* | $0 | $0 | $0 |
| **Total Estimated Net Effect on All Federal Funds** | **$0** | **$0** | **$0** |

*Revenues and expenditures of approximately $49,800,000 in FY 03 would net to $0.

| ESTIMATED NET EFFECT ON LOCAL FUNDS | | | |
|---|---|---|---|
| FUND AFFECTED | FY 2003 | FY 2004 | FY 2005 |
| **Local Government** | **$0** | **$0** | **$0** |

Numbers within parentheses: ( ) indicate costs or losses.
This fiscal note contains 8 pages.

## FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Health and Senior Services** and the **State Treasurer's Office** assume this proposal would not fiscally impact their agencies.

Officials from the **Missouri Consolidated Health Care Plan (HCP)** assume the pharmacies will take the increased dispensing fees into account when negotiating with the pharmacy benefit managers and assume no fiscal impact.

Officials from the **Missouri Department of Conservation (MDC)** assume this proposal would have fiscal impact on MDC prescription drug benefit plan, because it imposes up to a 6% tax on retail pharmacy prescription sales. MDC estimates the impact to be in excess of $100,000.

Officials from the Department of **Public Safety - Missouri State Highway Patrol** defer their fiscal note response to the Department of Transportation.

Officials from the **Department of Transportation (DHT)** state this legislation places a tax on the gross retail prescription receipts of pharmacies. The tax cannot exceed 6% of gross retail prescription receipts. This legislation will have no fiscal impact on DHT. Nothing in the legislation prevents the pharmacies from attempting to raising the cost of prescriptions to cover the tax. If prescription costs are increased due to the tax, then this legislation will have a fiscal impact on the Highway & Patrol Medical Plan.

Assuming that pharmacies do pass this tax on to the consumer by increasing the cost of prescriptions, there would be a fiscal impact to the Medical Plan. DHT states in CY 2001 the Medical Plan paid out $9,405,950 for prescription costs and based on projections from the Medical Plan's Actuary, we are to assume prescription drug benefit costs will increase at a 20% annualized rate. If pharmacies pass the tax on to the consumer and the tax was 6% of gross retail receipts then the Medical Plan would realize an additional 6.38% increase in prescription costs annually. Because the legislation does not give the exact tax percentage we assumed 6%, which is the maximum amount that is allowed. DHT also assumed that the pharmacies would gross up prescription charges to cover the 6% tax on the 6% increase to their prescriptions which is intended to cover their 6% tax on gross retail receipts.

To calculate the gross up DHT subtracted the tax rate of 6% from 100% which gave yields 94%. DHT then divided the 6% tax by 94% which equals the gross up amount and which equated to an approximate 6.38% (6%/(1 - 6%)) increase. The total fiscal impact to the Medical Plan would be approximately $720,456 ((($9,405,950 x (100 + 20%)) x 6%)/(100% - 6%)) in CY 2002.

Currently 77% of the Medical Plan's total participation is due to DHT participants and 23% is
ASSUMPTION (continued)

due to MHP participants. Therefore, approximately $554,751 ($720,456 x 77%) of the total fiscal impact in FY 2003 would be due to DHT participants and $165,705 ($720,456 x 23%) would be due to MHP participants.

Historically, the department and the plan members have shared in any premium increases necessary because of increases in benefits. The costs may be shared in the long run (meaning shared between three categories: absorbed by the plan, state appropriated funds, and/or costs to individuals covered under the plan). However, the DHT (commission) must make a decision on what portion they will provide. Until the commission makes a decision, DHT can only provide the cost to the medical plan.

Officials from the **Department of Mental Health (DMH)** state that the DMH , Division of Comprehensive Psychiatric Services provides General Revenue funds to purchase drugs for consumers. Assuming that pharmacies would not pass this cost of doing business on to the customer, DMH assumes no fiscal impact.

Officials from the **Department of Revenue (DOR)** state the proposed legislation would require a new system. The complexity of the system includes, but is not limited to the due date of the 15th of the month, sharing duties and responsibilities with a separate agency (DOS), DOR providing information to DOS to collect the money, which is done separate from reporting, and then payable to DOR. It is estimated that the 6,228 hours of programming would be required to develop a new system to handle the functions mentioned at a cost of $207,766. The State Data Center charges to implement the proposed legislation would be $40,530.

The Division of Taxation and Collection recommends that DOR not be included in this legislation other than as a cashiering function. If DOR only cashiers the pharmacy tax, there would be no administrative impact on the Division of Taxation and Collection. However, if the language remains as drafted DOR would need two Tax Processing Tech I's to process the monthly reports and provide Social Services with the quarterly figures to collect.

Officials from the **Department of Social Services (DOS)** assume that they would be the primary agency responsible for the administration of the program. The responsibilities of the DOS would include (1) promulgating the rules on the formula for the tax, (2) notifying the pharmacies of the amount of tax due and amount of tax paid on a quarterly basis, (3) facilitating an offset, if requested by the provider, (4) notifying pharmacies of taxes due greater than 90 days, and (5) filing state plan amendment and make system changes to increase dispensing fees.

The Division of Medical Services (DMS) assumes the implementation and maintenance of this program would require one additional FTE. A Management Analysis Specialist II would be needed at a cost of $69,482 for salary, fringe benefits and equipment and expense.

<u>ASSUMPTION</u> (continued)

The DMS estimates retail pharmacy sales for FY03 at $2.96 billion. This is based on a report produced by Novartis on calendar year 2000 and inflated 3% annually. For the purposes of this fiscal note, DMS assumed that the tax rate would be 1.86%, which would yield revenue of $55,056,000. The Medicaid dispensing fee would be adjusted to equal the tax assessment plus 10% which comes to $60,561,600 ($55,056,000 + ($55,056,000 x 10%)). The GR of $60,561,600 is $23,503,957. The net gain in terms of GR to the state is $31,552,043 ($55,056,600-$23,503,957). The GR of $31,552,043 allows DMS to draw federal funds of $49,746,702 for a total of $81,298,745. The increase in the Medicaid dispensing fee has been requested in a separate decision item in the DOS budget.

DMS estimates the cost of the health care study at $100,000. DMS assumes that there would be no federal matching funds available for the study.

DMS assumes the proposal will sunset as of June, 2003, therefore no fiscal impact in FY 04 and FY 05.

| FISCAL IMPACT - State Government | FY 2003 (10 Mo.) | FY 2004 | FY 2005 |
|---|---|---|---|
| **GENERAL REVENUE** | | | |
| Transfer in- Department of Social Services | | | |
| From Pharmacy Tax Fund | $55,056,000 | $0 | $0 |
| Costs - Department of Social Services | | | |
| Increased Medicaid pharmacy dispensing fee | ($23,503,957) | $0 | $0 |
| Costs - Department of Social Services - Division of Medical Services | | | |
| Personal Services (1 FTE) | ($22,195) | $0 | $0 |
| Fringe Benefits | ($7,992) | $0 | $0 |
| Expense and Equipment | ($4,554) | $0 | $0 |
| Health Care Cost Study | ($100,000) | $0 | $0 |
| Total Costs - Department of Social Services - Division of Medical Services | ($134,741) | $0 | $0 |
| Costs - Department of Revenue | | | |
| Personal Services (2 FTE) | ($42,384) | $0 | $0 |
| Fringe Benefits | ($15,262) | $0 | $0 |

| FISCAL IMPACT - State Government | FY 2003 (10 Mo.) | FY 2004 | FY 2005 |
|---|---|---|---|
| Expense and Equipment | ($17,215) | $0 | $0 |
| Programming | ($248,296) | $0 | $0 |
| Total Costs - Department of Revenue | ($323,157) | $0 | $0 |
| **ESTIMATED NET EFFECT ON GENERAL REVENUE** | **$31,094,145** | **$0** | **$0** |
| **CONSERVATION FUND** | | | |
| Costs - Missouri Department of Conservation | | | |
| Costs–Increased state contribution | (Unknown) | $0 | $0 |
| **ESTIMATED NET EFFECT ON CONSERVATION FUND*** | **(UNKNOWN)** | **$0** | **$0** |
| ***Expected to exceed $100,000 annually.** | | | |
| **HIGHWAY FUND** | | | |
| Costs - Department of Transportation | | | |
| Increased state contribution | ($554,751) | $0 | $0 |
| Costs - Department of Public Safety - Missouri State Highway Patrol | | | |
| Increased State Contribution | ($165,705) | $0 | $0 |
| **ESTIMATED NET EFFECT TO HIGHWAY FUND** | **($720,456)** | **$0** | **$0** |
| **PHARMACY TAX FUND** | | | |
| Income - Department of Revenue | | | |
| Pharmacy tax | $55,056,000 | $0 | $0 |

| FISCAL IMPACT - State Government | FY 2003 (10 Mo.) | FY 2004 | FY 2005 |
|---|---|---|---|
| Transfer Out- - Department of Social Services | | | |
| To General Revenue | ($55,056,000) | $0 | $0 |
| **ESTIMATED NET EFFECT ON PHARMACY TAX FUND** | **$0** | **$0** | **$0** |
| **FEDERAL FUND** | | | |
| Income - Department of Social Services | | | |
| Additional federal draw-downs | $49,746,702 | $0 | $0 |
| Medicaid reimbursements | $34,741 | $0 | $0 |
| Total Income - Department of Social Services - Division of Medical Services | ($49,781,443) | $0 | $0 |
| Costs - Department of Social Services - Division of Medical Services | | | |
| Personal Services (1 FTE) | ($22,195) | $0 | $0 |
| Fringe Benefits | ($7,992) | $0 | $0 |
| Expense and Equipment | ($4,554) | $0 | $0 |
| Medicaid pharmacy program costs | ($49,746,702) | $0 | $0 |
| Total Costs - Department of Social Services - Division of Medical Services | ($49,781,443) | $0 | $0 |
| **ESTIMATED NET EFFECT ON FEDERAL FUND** | **$0** | **$0** | **$0** |

| FISCAL IMPACT - Local Government | FY 2003 (10 Mo.) | FY 2004 | FY 2005 |
|---|---|---|---|
| | **$0** | **$0** | **$0** |

FISCAL IMPACT - Small Business

Small business that are pharmacies would be required to pay a tax on retail sales.

DESCRIPTION

This proposal imposes a tax upon licensed retail pharmacies in Missouri for the privilege of providing outpatient prescription drugs. The tax rate will be based on monthly gross retail prescription receipts of pharmacies. The tax rate cannot exceed 6%. For pharmacies in which 80% or more of gross receipts are attributable to prescription drugs delivered via mail, the tax rate shall not exceed 1/10% per annum. The Department of Social Services will notify each individual pharmacy of the amount of quarterly tax due.

The proposal provides for a credit against the tax on pharmacies for certain taxes paid to the federal government and provides for offsets against any Medicaid payment due the pharmacy from the state.

All revenues from the tax will be deposited in the Pharmacy Tax Fund, created in the bill.

Moneys in the fund will be used to provide payments for services related to the Medicaid pharmacy program.

The INS will commission a health care cost study to assess the degree of health care costs shifted to individual Missourians and individual and group health plans resulting from this tax. Costs of the study will be paid for by the DOS.

The provisions of the bill will expire on June 30, 2003.

The bill contains an emergency clause.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Transportation
Department of Social Services
Missouri Consolidated Health Care Plan

CM:LR:OD (12/01)

Department of Insurance
Missouri Department of Conservation
Department of Public Safety -
Missouri State Highway Patrol
State Treasurer's Office
Department of Revenue
Department of Health and Senior Services
Department of Mental Health

Mickey Wilson

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